## IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

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This matter is before the court on the Petition for Action on Conditions of Pretrial Release (Filing No. 84). On May 3, 2005, defendant Hector Romero Gutierrez (Gutierrez), was ordered released upon conditions pending trial (Filing No. 80). Gutierrez was to reside at the Arch Half-Way House in Omaha, Nebraska, and to comply with various conditions of pretrial release. On June 8, 2005, Pretrial Services Officer Timothy Connor submitted a Petition for Action on Conditions of Pretrial Release alleging Gutierrez had violated the conditions of his release by failing to comply with the rules at the Arch and absconding from supervision (Filing No. 80). A warrant for Gutierrez's arrest was issued.

Gutierrez appeared before the undersigned magistrate judge on June 16, 2005. He was represented by Michael T. Levy and the United States was represented by Assistant U.S. Attorney Kimberly C. Bunjer. After being advised of the nature of the allegations, his rights, and the consequences if the allegations were found to be true, Gutierrez admitted the allegations of the petition. The court finds the allegations of the petition are generally true and finds Gutierrez has violated the conditions of his release.

The court took judicial notice of a Pretrial Services Violation Report from Pretrial Services Officer Lisa L. Caviness. After providing both parties an opportunity for allocution as to disposition and considering the report of Pretrial Services, I find the Order Setting Conditions of Release should be revoked. I find Gutierrez is unlikely to abide by conditions of release, and there is no other condition or combination of conditions that would reasonably assure Gutierrez's presence for further proceedings or the safety of the community in the event Gutierrez were released upon conditions.

## IT IS ORDERED:

- 1. The Petition For Action on Conditions of Pretrial Release (Filing No. 84) is granted.
- 2. The May 3, 2005, Order Setting Conditions of Release of Hector Romero Gutierrez (Filing No. 80) is hereby revoked.
- 3. The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States marshal for the purpose of an appearance in connection with a court proceeding.

DATED this 16th day of June, 2005.

BY THE COURT:

s/Thomas D. Thalken United States Magistrate Judge